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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 LAUREN DAVIS, on behalf of
13 herself and others similarly situated,

14 Plaintiff,

15 v.

16
17 BOARD SI, INC.,

18 Defendants.
19

Case No.

**COMPLAINT FOR
INJUNCTION AND
DAMAGES**

Class Action

JURY TRIAL DEMAND

21
22 Plaintiff Lauren Davis (“Plaintiff”), by her undersigned counsel, brings
23 this Class Action Complaint against Defendant Boardsi, Inc. (“Boardsi” or
24 “Defendant”) and alleges on personal knowledge, due investigation of her
25 counsel, and, where indicated, on information and belief as follows:
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INTRODUCTION

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2 1. As the Supreme Court has explained, “Americans passionately
3 disagree about many things. But they are largely united in their disdain for
4 robocalls. The Federal Government receives a staggering number of
5 complaints about robocalls—3.7 million complaints in 2019 alone. The States
6 likewise field a constant barrage of complaints. For nearly 30 years, the
7 people’s representatives in Congress have been fighting back. As relevant
8 here, the Telephone Consumer Protection Act of 1991, known as the TCPA,
9 generally prohibits robocalls to cell phones and home phones.” *Barr v. Am.*
10 *Ass'n of Political Consultants*, 140 S. Ct. 2335, 2343 (2020).

11 2. “If robocalls were a disease, they would be an epidemic.” *Rage*
12 *Against Robocalls*, Consumer Reports.¹ “Robocalls” are the number one
13 consumer complaint in America today and Defendant’s conduct in this case is
14 a good reason why.

15 3. The TCPA was enacted to prevent companies like Defendant
16 from invading American citizens’ privacy and to prevent illegal robocalls.

17 4. More specifically, Congress passed the TCPA in 1991 to address
18 a growing number of consumer complaints regarding certain telemarketing
19 practices – for example, computerized calls to private homes. Congress found
20 that “pre-recorded calls are a nuisance and an invasion of privacy, regardless
21 of the type of call” and decided that “banning” such calls made without consent
22 was “the only effective means of protecting telephone consumers from this
23 nuisance and privacy invasion.” Pub. L. No. 102-243, §§ 2(10-13) (Dec. 20,
24 1991), codified at 47 U.S.C. § 227; *see also Mims v. Arrow Fin. Servs., LLC*,

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26
27 ¹ Available at [https://www.consumerreports.org/cro/magazine/2015/07/rage-](https://www.consumerreports.org/cro/magazine/2015/07/rage-against-robocalls/index.htm)
28 [against-robocalls/index.htm](https://www.consumerreports.org/cro/magazine/2015/07/rage-against-robocalls/index.htm) (last visited Apr. 8, 2024).

1 565 U.S. 368, 371 (2012) (“The Act bans certain practices invasive of
2 privacy[.]”).

3 5. “Senator Hollings, the TCPA’s sponsor, described these calls as
4 ‘the scourge of modern civilization, they wake us up in the morning; they
5 interrupt our dinner at night; they force the sick and elderly out of bed; they
6 hound us until we want to rip the telephone out of the wall.’” 137 Cong. Rec.
7 30, 821 (1991).

8 6. According to findings by the Federal Communication
9 Commission (“FCC”)—the agency Congress vested with authority to issue
10 regulations implementing the TCPA—such calls are prohibited because, as
11 Congress found, prerecorded telephone calls are a greater nuisance and
12 invasion of privacy than live solicitation calls, and such calls can be costly and
13 inconvenient. The FCC also recognized that wireless customers are charged
14 for incoming calls whether they pay in advance or after the minutes are used.
15 These types of damages are the same shared by the Plaintiff and the other
16 putative class members.

17 7. Accordingly, the TCPA regulates, *inter alia*, the use of
18 prerecorded messages. Specifically, the plain language of section
19 227(b)(1)(A)(iii) prohibits the use of prerecorded messages to make any call
20 to a wireless number in the absence of an emergency or the prior express
21 consent of the called party.

22 8. Despite this prohibition, Defendant Boardsi, violates 47 U.S.C. §
23 227(b)(1)(A)(iii) by using an artificial or prerecorded voice in connection with
24 non-emergency calls it places to telephone numbers assigned to a cellular
25 telephone service, without prior express consent.

1 18. On August 28, 2024, Boardsi placed a prerecorded call to
2 Plaintiff's Number, which originated from (256) 485-6122 (the "Boardsi
3 Number").

4 19. The call, which Plaintiff recorded, used a prerecorded voice and
5 artificial intelligence ("AI") to simulate a live person.

6 20. This AI voice identified itself as calling from Boardsi, at which
7 point Plaintiff stated "please take me off the list."

8 21. In response, the AI voice on the other end of the call stated
9 "I...I...I understand Lauren, Just to clarify, do you do any board work?"

10 22. This prompted several back-and-forth exchanges in which
11 Plaintiff repeated requested "please take me off the list." Each time Plaintiff
12 did so, the AI voice repeated the same statement "I understand Lauren. Just to
13 clarify, do you do any board work?"

14 23. After these exchanges, the call simply terminated.

15 24. Given the repetitive content of the call, there can be no dispute
16 Boardsi placed the call to Plaintiff's Number using a prerecorded and/or
17 artificial voice, combined with AI, to simulate a live person.

18 25. Later that day, Plaintiff received two additional calls from the
19 Boardsi Number.

20 26. Plaintiff is not, and has never been, a customer of Boardsi.

21 27. Plaintiff did not provide Plaintiff's Number to Boardsi.

22 28. Plaintiff did not provide Boardsi with consent to place calls to
23 Plaintiff's Number. Plaintiff did not provide Boardsi with consent to place
24 calls in connection with the use of an artificial or prerecorded voice.

25 29. Boardsi placed the subject calls to Plaintiff's Number voluntarily,
26 and of its own free will.

1 30. Boardsi had knowledge that it was using an artificial or
2 prerecorded voice in connection with the subject calls it placed to Plaintiff's
3 Number.

4 31. Plaintiff suffered actual harm as a result of the artificial and/or
5 prerecorded calls she received from Boardsi, in that Plaintiff suffered an
6 invasion of privacy, an intrusion into her life, and a private nuisance.

7 32. Upon information and good faith belief, Boardsi, as a matter of
8 pattern and practice, uses an artificial or prerecorded voice in connection with
9 calls it places to telephone numbers assigned to a cellular telephone service,
10 absent prior express consent.

11 **CLASS ACTION ALLEGATIONS**

12 33. Plaintiff brings this action under Federal Rule of Civil Procedure
13 23, and as a representative of the following Class:

14
15 All persons throughout the United States (1) to
16 whom Defendant placed a call, (2) directed to a
17 number assigned to a cellular telephone service, (3)
18 not assigned to a person who either subscribed to
19 Defendant's service or responded to an email
20 regarding the same, (4) where an artificial or
21 prerecorded voice was played, (5) from four years
22 prior to the filing of this complaint through the date
23 of class certification.

24 34. Excluded from the Class are Defendant and any entities in which
25 Defendant has a controlling interest, Defendant's agents and employees, the
26 Judge to whom this action is assigned, and any member of the Judge's staff
27 and immediate family.

28 35. The Class defined above is identifiable through Defendant's own
call records and account records, as well as those maintained by third parties.

1 36. The members of the Class are ascertainable because they are
2 defined by reference to objective criteria.

3 37. Plaintiff does not know the exact number of members in the Class,
4 but based upon the size and national scope of Defendant's business, Plaintiff
5 reasonably believes that the Class members' number, at a minimum, in the
6 hundreds.

7 38. The joinder of all Class members is impracticable due to the size
8 and relatively modest value of each individual claim. The disposition of the
9 claims in a class action will provide substantial benefit to both the parties and
10 the Court in avoiding multiplicity of identical suits. The class can be easily
11 identified through records maintained by Defendant.

12 39. Plaintiff is a member of the Class.

13 40. As a non-subscriber who did not respond to a marketing email,
14 Plaintiff's claims are typical of the claims of the other Class members.

15 41. Plaintiff and all members of the Class have been harmed by
16 Defendant's actions. That is not only because the Class members were
17 subjected to the aggravation that necessarily accompanies these calls, but also
18 because consumers frequently have to pay their cell phone service providers
19 for the receipt of such calls; such calls are also an intrusion upon seclusion,
20 diminish cellular battery life, and waste data storage capacity.

21 42. Plaintiff is an adequate representative of the Class because her
22 interests do not conflict with the interests of the Class, she will fairly and
23 adequately protect the interests of the Class, and she is represented by counsel
24 skilled and experienced in class actions, including TCPA class actions.

25 43. There are questions of law and fact common to the members of
26 the Class, which predominate over any questions affecting only individual
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1 Class members. Those common questions of law and fact include, but are not
2 limited to:

- 3 (a) Whether Defendant's calls utilized an artificial or prerecorded
4 voice;
- 5 (b) Whether Defendant placed robocalls to non-subscribers who did
6 not consent to those calls;
- 7 (c) Whether Defendant's conduct, as alleged herein, violates the
8 TCPA;
- 9 (d) Whether Defendant's conduct was willful or knowing; and
- 10 (e) Whether Plaintiff and the Class are entitled to statutory
11 damages.

12 44. A class action is superior to all other available methods for the
13 fair and efficient adjudication of this matter because the likelihood that
14 individual members of the class will prosecute separate actions is remote due
15 to the time and expense necessary to prosecute an individual case, and the
16 small amount of potential recoverable damages. Further, there will be little
17 difficulty in the management of this action as a class action.

18 45. Defendant has acted or refused to act on grounds generally
19 applicable to the members of the class, making final declaratory or injunctive
20 relief appropriate.

21 CLAIMS ASSERTED

22 Count I

23 Violation of 47 U.S.C. § 227(b)(1)(A)(iii)

24 46. Plaintiff repeats and re-alleges each and every factual allegation
25 contained herein.

26 47. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by using an
27 artificial or prerecorded voice in connection with calls it placed to Plaintiff's
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1 cellular telephone number and the cellular telephone numbers of the members
2 of the Class, without consent, or by the fact that someone did so on their behalf.

3 48. As a result of Defendants' violations of 47 U.S.C. §
4 227(b)(1)(A)(iii), Plaintiff and the members of the class are entitled to
5 damages in an amount to be proven at trial.

6 **Prayer for Relief**

7 WHEREFORE, Plaintiff prays for relief and judgment in favor of
8 Plaintiff and the Class against Defendant, as follows:

9 (a) An order enjoining Defendant from placing prerecorded phone
10 calls to non-subscribers without prior express consent;

11 (b) An award of statutory damages to Plaintiff and the Class in the
12 amount of \$500 for each negligent violation of the TCPA and
\$1,500 for each knowing or willful violation of the TCPA;

13 (c) An order certifying this action to be a proper class action pursuant
14 to Federal Rule of Civil Procedure 23, establishing an appropriate
15 Class the Court deems appropriate, finding that Plaintiff is a
16 proper representative of the Class, and appointing the lawyers and
law firms representing Plaintiff as counsel for the Class; and

17 (d) Such other relief as the Court deems just and proper.

18 **DEMAND FOR JURY**

19 Plaintiff demands a trial by jury for all issues so triable.

20 RESPECTFULLY SUBMITTED AND DATED this 11th day of
21 December, 2024.

22
23 **KIND LAW**

24 /s/ Michael Kind

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